



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC
Docket No: 06734-99
16 December 1999

SSGT [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Staff Sergeant [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 16 December 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 27 October 1999, a copy of which is attached, and your letter dated 18 November 1999.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. The Board was unable to find your relationship with your reporting senior and reviewing officer changed during the 90 days from the end of the reporting period in question to the date the contested report was written, or that such a change adversely influenced the report. They were likewise unable to find you were never counseled that your performance was lacking in any way. In any event, the Board generally does not grant relief on the basis of an alleged absence of counseling, since counseling takes many forms, so the recipient may not recognize it as such when it is provided. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is

important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure

6734-99



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:

1610

MMER/PERB

OCT 27 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF
SERGEANT [REDACTED], USMC

Ref: (a) SSgt [REDACTED] DD Form 149 of 12 Jul 99
(b) MCO P1610.7C W/Ch 1-6

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 21 October 1999 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 930521 to 930918 (CH) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner argues that the report was submitted some 90 days subsequent to the end of the reporting period and that the Reporting Senior made an "unacceptable" comment.

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. Although neither this Headquarters nor the PERB condone the late submission of fitness reports, that single fact does not serve to invalidate an otherwise completely acceptable evaluation. To this end, the Board finds that the petitioner has failed to document precisely how or why the late submission has caused the report to be substantively inaccurate.

b. The Board does not find that the challenged comment (i.e., "After having been set-back in MOS experience due to his last assignment in survey, is working diligently on improving and expanding his professional knowledge.") is either "unacceptable" or "inappropriate." Per reference (b), the Reporting Senior had an obligation to inform the Commandant of the Marine Corps how well the petitioner was progressing. He did precisely that -- nothing more or less.

4. The Board's opinion, based on deliberation and secret ballot vote is that the contested fitness report should remain a part of Staff Sergeant [REDACTED] official military record.

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5. The case is forwarded for final action.

[REDACTED]
Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps